

REMARKS

This is a response to the Office Action mailed on November 16, 2004.

Claims 1-4, 6, 7, 10-19 and 21-28 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. patent 6,335,792 to Tsuchiya. Applicant respectfully traverses the rejection.

Specifically, Tsuchiya is not prior art to the present invention because it has an effective date under 35 U.S.C. §102(e) of November 21, 2000. Specifically, the effective date of Tsuchiya is its 35 U.S.C. §111(a) date of November 21, 2000. This can be verified by referring to the enclosed flowchart from the MPEP §706.02(f)(1), in which the relevant decision block is marked.

In contrast, the present application is a 35 U.S.C §371 national stage filing based on International Application No. PCT/US00/25136, filed September 14, 2000, which in turn claims the benefit of U.S. Provisional Application No. 60/153,926, filed September 14, 1999 and of U.S. Provisional Application No. 60/154,099, filed September 15, 1999. Applicant's priority dates of September 14, 1999 and September 15, 1999 pre-date the effective date of Tsuchiya.

Tsuchiya is a U.S. patent that issued from an application that is a continuation-in-part of International Application No. PCT/JP00/02696, filed May 24, 1999, which in turn claims the benefit of JP 10-144300, filed May 24, 1998. Note that the Tsuchiya patent is not entitled to the filing date of the PCT/JP00/02696 for each of the following independent reasons:

1. Tsuchiya's U.S. application is not a national stage filing under 35 U.S.C. §371 (it is a CIP under 35 U.S.C. §365(c)). This can be verified by noting the lack of a reference to 35 U.S.C. §371 on the cover of the Tsuchiya patent;

2. Tsuchiya's PCT application was filed before November 29, 2000 and is therefore interpreted under the pre-AIPA rules; and

3. Tsuchiya's PCT application was not published in English (see enclosed cover page of PCT/JP00/02696 indicating that the publication, other than the abstract, is in the Japanese language).

Having established that Tsuchiya is not prior art to the present application, withdrawal of the rejection under Tsuchiya is therefore respectfully requested.

In view of the above, each of the claims is believed to be in condition for immediate allowance, and the Examiner is requested to pass this application on to an early issue. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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